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OFFICE OF PETITIONS

In re Application of
Carl Brock Brandenburg, et al.
Application No. 09/944,482
Filed: August 31, 2001
Attorney Docket No.: 0746MH-40404A

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ON PETITION

This is a decision in response to the renewed petition, filed September 29, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

A review of the record discloses that this application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed September 21, 2006. A Notice of Abandonment was mailed on April 2, 2007. On June 7, 2010, a petition to revive under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed July 28, 2010. In response, on September 29, 2010, the present petition was filed providing an explanation for the delay.

This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." See Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$810, and the submission required by 37 CFR 1.114; (2) the petition fee of \$1,620; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2179 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

A handwritten signature in black ink, appearing to read "Sherry D. Brinkley". The signature is fluid and cursive, with the first name "Sherry" and last name "Brinkley" clearly distinguishable.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions